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First Amendment Forbids Mandatory Union Fees From Public Sector Unions

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Illinois permits public employees to unionize, and Mark Janus was a state employee whose unit was represented by a public-sector union that engaged in collective bargaining on behalf of its members. The union required that Janus pay a union fee, but he objected since he opposed many of the collective bargaining positions the union took. In the previous case of *Abood v. Detroit Bd. of Education*, 431 U.S. 209 (1977), the Supreme Court had permitted such fees to be collected to support activities germane to the union s purpose, so long as those fees did not support the union s political speech. The district court accordingly ruled that *Abood* resolved Janus claim in favor of the union, and the Seventh Circuit affirmed. The Court, in a 5-4 decision by Justice Alito, reversed, overruling *Abood* as being inconsistent with First Amendment principles. The Court was troubled with the idea of forcing free and independent individuals to endorse ideas they find objectionable, and decided that the rationales supporting *Abood* no longer were sustainable. Thus, public-sector unions can no longer extract fees from nonconsenting employees, significantly weakening those unions. Justice Sotomayor filed a dissent noting her discomfort in how the Court has interpreted a prior opinion it now used to overrule *Abood*. Justice Kagan, joined by Justices Ginsburg, Breyer, and Sotomayor, dissented, arguing that there was no reason for the majority to overrule *Abood*, and the Court s decision will have large-scale consequences for public employees across the country. A link to the opinion in *Janus v. American Federal of State, County, and Municipal Employees, Council 31*, is here.

TAGGED: scotus, First Amendment, Union Fees, Public Sector Unions, Abood v. Detroit Bd. of Education, Janus v. American Federal of State, Janus v. American Federal of State County and Municipal Employees Council 31